

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**GE CAPITAL COMMERCIAL, INC.,
et al.,**

Plaintiffs,

v.

WORTHINGTON NATIONAL BANK,

Defendant.

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Civil Action No. **3:09-CV-572-L**

ORDER

Before the court are the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed February 28, 2011 (“Report”) regarding Worthington National Bank’s Motion to Exclude Plaintiffs’ Expert Witness Catherine Ghiglieri, which was filed on December 17, 2010, and referred to the magistrate judge on December 27, 2010. Defendant Worthington National Bank did not file any objections.


This action arises out of the alleged conversion of over \$12.5 million from Plaintiffs GE Capital Commercial, Inc., General Electric Capital Corporation, and GE Capital Financial, Inc. (collectively, “Plaintiffs”). Plaintiffs initially asserted causes of action against Worthington National Bank (“Worthington”) for money had and received, fraudulent transfer, conversion, permanent injunction, and constructive trust. The court has since dismissed all claims against Worthington, except for Plaintiffs’ claim for fraudulent transfer under the Texas Uniform Fraudulent Transfer Act. Worthington has asserted good faith as a complete defense to the claim. To negate Worthington’s good faith defense, Plaintiffs designated Catherine Ghiglieri (“Ghiglieri”) as an expert witness. She is expected to testify that Worthington failed to meet the applicable standards in opening and

monitoring the accounts at issue, in failing to close them when they showed signs of fraud, and in failing to properly supervise and monitor the \$2.5 million line of credit for Wright & Wright, Inc., a dismissed Defendant in this case. On December 17, 2010, Worthington moved to exclude Ghiglieri's testimony on the ground that it is irrelevant under Rule 702 of the Federal Rules of Evidence.

After reviewing the parties contentions and applicable law, the magistrate judge concluded that Ghiglieri's testimony is relevant to Worthington's good faith defense in accepting the \$2.5 million in allegedly stolen money to satisfy the loan at issue.

The court has reviewed the Report, the record, and the applicable law, and determines that the findings and conclusions are correct. They are therefore **accepted** as those of the court. Accordingly, the court **denies** Worthington National Bank's Motion to Exclude Plaintiffs' Expert Witness Catherine Ghiglieri.

It is so ordered this 30th day of March, 2011.


Sam A. Lindsay
United States District Judge